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Senate

BANKING REFORM ACT 2001

Mr. CARPER. The amendment offered by Senator Leahy is a good amendment and he has pointed to a problem with the bill, I think unintentional.

This is the situation we face: We have a husband and a wife and they are living separately, maybe at the end of their marriage, and the wife wants to file for bankruptcy. The income of her spouse will be imputed, regardless of whether or not that spouse is providing any kind of support at all.

As a result, in most cases the wife would not be able to file chapter 7 and enjoy the

benefit of safe harbor. Mr. Leahy would have us fix that. That is a good thing.

Unfortunately, the problem that flows out of the amendment is that in some cases that husband really is providing support for that spouse. It is important we find that out; that we not create a situation, unwittingly, where fraud could prevail and where that husband, in most cases, is supporting the wife and supporting the family and does not acknowledge as much. There is a simple way to fix it, and I hope in conference Senator Leahy and others will find that appropriate fix.